

FILED  
U.S. DISTRICT COURT  
AUGUSTA DIV.

2018 MAR -5 PM 2: 44

CLERK   
SO. DIST. OF GA.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA

DUBLIN DIVISION

ANTONIO J. SAUNDERS-EL,

Plaintiff,

v.

CV 318-005

MONTGOMERY COUNTY;  
JOEY FOUNTAIN, Montgomery County  
Mayor; MONTGOMERY COUNTY  
SHERIFF'S DEPARTMENT; RONNIE  
BIVENS, Montgomery County Chief of  
Police; BEN MAYBIN, Lieutenant; and  
JUSTIN FOUNTAIN, Officer, in their  
individual and official capacities,

Defendants.

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**ORDER**

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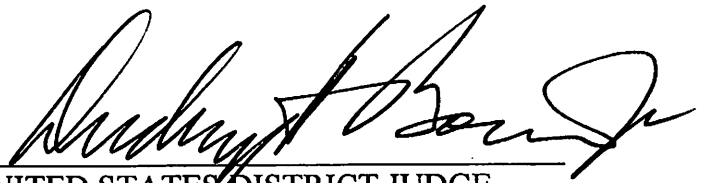
After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed (doc. no. 5). Plaintiff argues he should not be required to refile his case but rather submit the \$400.00 filing fee, which he has now done. (*Id.*) However, as the Eleventh Circuit held,

[T]he proper procedure is for the district court to dismiss the complaint without prejudice when it denies the prisoner leave to proceed *in forma pauperis* pursuant to the three strikes provision of § 1915(g). The prisoner cannot simply pay the filing fee after being denied *in forma pauperis* status. He must pay the filing fee at the time he *initiates* the suit.

Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002) (emphasis in original).

Accordingly, the Court **OVERRULES** Plaintiff's objections, **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion, **DENIES** Plaintiff's request to proceed IFP (doc. no. 2), **DENIES AS MOOT** Plaintiff's Motion to Amend (doc. no. 7), **DISMISSES** this case without prejudice, and **CLOSES** this civil action. The Court **DIRECTS** the Clerk to return the \$400.00 filing fee to Plaintiff.

SO ORDERED this 5<sup>th</sup> day of March, 2018, at Augusta, Georgia.

  
UNITED STATES DISTRICT JUDGE